

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2595

Introduced by Assembly Member Hall

February 24, 2012

An act to add Section 35616 to the Public Resources Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2595, as amended, Hall. Desalination.

The Cobey-Porter Saline Water Conversion Law authorizes the Department of Water Resources, either independently or in cooperation with public or private entities to conduct a program of investigation, study, and evaluation in the field of saline water conversion, to provide assistance to persons or entities seeking to construct desalination facilities, and after submission of a written report and upon appropriation from the Legislature, to finance, construct, and operate saline water conversion facilities. Existing law required the department, not later than July 1, 2004, to report to the Legislature; on potential opportunities and impediments for using seawater and brackish water desalination, and to examine what role, if any, the state should play in furthering the use of desalination technology. Existing law *also* required the department to convene a Water Desalination Task Force, comprised of representatives from listed agencies and interest groups, to advise the department in carrying out these duties and in making recommendations to the Legislature.

The California Ocean Protection Act establishes the Ocean Protection Council in state government. Existing law requires the Ocean Protection Council to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies, and to identify and recommend to the Legislature changes in law needed to achieve these goals.

This bill would require the council to report to the Legislature, by December 31, ~~2013~~ 2014, on opportunities for streamlining the current statewide permitting processes for seawater desalination facilities, including an evaluation of impediments to desalination projects relative to the current permitting process and to recommend potential administrative and legislative actions for ~~streamlining~~ *improving* the permitting process while maintaining current regulatory protections. The bill would require the council to convene the Seawater Desalination Permit ~~Streamlining~~ *Improvement* Task Force to review the current permitting processes required by all state regulatory agencies for the planning, design, construction, monitoring, and operation of seawater desalination facilities, to identify opportunities for ~~streamlining~~ *improving* the permitting process, and to advise the council in making the report.

Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the department, upon appropriation by the Legislature, for grants for projects that assist local public agencies to meet the long-term water needs of the state, including the delivery of safe drinking water and the protection of water quality and the environment. Eligible projects are required to implement integrated regional water management plans that meet certain requirements.

This bill would appropriate \$250,000 of these funds to the department to pay the costs of convening the Seawater Desalination Permit ~~Streamlining~~ *Improvement* Task Force and preparation of the report.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) A growing population, climate change uncertainty, and the
4 need to grow the state's economy while protecting and restoring
5 our fish and wildlife habitats make it essential that the state manage
6 its water resources as efficiently as possible.

7 (b) Diversifying regional water supply portfolios will increase
8 water supply reliability and advance state policies for regional
9 self-sufficient water supplies. In addition to stormwater capture,
10 water recycling, and conservation, water agencies located in coastal
11 areas are considering seawater desalination to help diversify their
12 water supply portfolios. These water agencies include seawater
13 desalination as potential future supplies in their most recent urban
14 water management plans. Seawater desalination projects are also
15 elements of several integrated regional water management plans.

16 (c) In addition to providing much needed water supply reliability
17 against future uncertainties, seawater desalination projects have
18 the potential to create new jobs in the state over the next 10 years
19 and generate much needed investment in local economies. Reverse
20 osmosis and other seawater desalination technologies were
21 pioneered and developed in California, and desalination technology
22 remains an important industrial sector in San Diego County and
23 other regions.

24 (d) Proponents for seawater desalination projects must obtain
25 close to 30 local, state, and federal permits and related approvals.
26 The procedure for obtaining key state permits is not always clear,
27 and there can be significant redundancy in the requirements
28 between some of the permitting agencies. As a result, both the cost
29 and the timeframe for obtaining state permits has become a
30 potential impediment for some proposed desalination projects.

31 (e) As a result of Chapter 62 of the Statutes of 2003 (Senate
32 Bill ~~No.~~ 600), a Water Desalination Task Force was convened and
33 it delivered a report to the Legislature that included the following
34 recommendation: "To improve communication, cooperation, and
35 consistency in permitting processes, encourage review processes
36 for each desalination project to be coordinated among regulators
37 and the public."

(f) Section 12947 of the Water Code states the intent of the Legislature that the Department of Water Resources undertake to find economic and efficient methods of desalting saline water so that desalted water may be made available to help meet the growing water requirements of the state.

(g) Existing law requires the State Water Resources Control Board to formulate and adopt a water quality control plan for ocean waters of the state known as the California Ocean Plan. The board is currently updating the California Ocean Plan with environmentally protective, science-based regulations, specifically for seawater desalination projects. These new regulations will be implemented through existing ~~National Pollution Discharge Elimination System~~ *national pollutant discharge elimination system* (NPDES) permits managed by regional water quality control boards.

SEC. 2. Section 35616 is added to the Public Resources Code, to read:

35616. (a) (1) Not later than December 31, ~~2013~~ 2014, the Ocean Protection Council shall report to the Legislature on opportunities for ~~streamlining~~ *improving* the current statewide permitting processes for seawater desalination facilities in California. The report shall ~~evaluate impediments to desalination projects relative to the current permitting process and~~ investigate opportunities to improve the process. The report shall also recommend potential administrative and legislative actions for ~~streamlining~~ *improving* the permitting process while maintaining current regulatory protections.

(2) The report submitted pursuant to this subdivision shall comply with Section 9795 of the Government Code.

(3) This subdivision shall become inoperative on January 1, 2018, pursuant to Section 10231.5 of the Government Code.

(b) The Ocean Protection Council shall convene a task force, to be known as the Seawater Desalination Permit ~~Streamlining~~ *Improvement* Task Force, to review the current permitting processes required by all state regulatory agencies for the planning, design, construction, monitoring, and operation of seawater desalination facilities, to identify opportunities for ~~streamlining~~ *improving* the permitting process, and to advise the Ocean Protection Council in implementation of subdivision (a), including making recommendations to the Legislature on the following:

1 (1) Establishing a clear ~~pathway for obtaining state permits~~
2 *permit process.*

3 (2) Defining the regulatory scope for each permitting agency.

4 (3) Eliminating redundant requirements between California
5 permitting agencies.

6 (4) Describing the data needed to complete each permit.

7 (5) Developing best practices for communication among
8 regulatory agencies and the regulated community.

9 (6) Ensuring that any recommended changes ~~maintain the do~~
10 *not negatively affect* current regulatory protections *or the*
11 *independent review of an independent agency.*

12 (c) (1) The recommendations developed by the Seawater
13 Desalination Permit-~~Streamlining~~ *Improvement* Task Force shall
14 focus on how state regulations are applied by permitting agencies
15 and commissions during the permitting process.

16 (2) The recommended actions should review the scope for each
17 permitting agency and commission, ~~while maintaining current~~
18 ~~regulatory protections~~ *without negatively affecting current*
19 *regulatory protections or the independent review of an independent*
20 *agency.*

21 (3) The recommended actions shall accommodate any new
22 ~~regulations policies~~ developed by the State Water Resources
23 Control Board for the California Ocean Plan, *the Department of*
24 *Water Resources for the 2013 California Water Plan, and any*
25 *other relevant agency.*

26 (4) *The recommended actions should be made in consideration*
27 *of the 2004 Seawater Desalination and the California Coastal Act*
28 *report prepared by the California Coastal Commission, the 2003*
29 *report prepared by the California Water Desalination Task Force*
30 *pursuant to Chapter 957 of the Statutes of 2002, and the 2008*
31 *California Desalination Planning Handbook prepared by the*
32 *Center for Collaborative Policy at California State University,*
33 *Sacramento.*

34 (5) *The recommendations shall discuss how the desalination*
35 *should fit in as an element of a balanced state water portfolio that*
36 *includes conservation and water recycling to the maximum extent*
37 *possible.*

38 (d) (1) ~~The~~ *In addition to the Ocean Protection Council, the*
39 *Seawater Desalination Permit-Streamlining Improvement Task*

- 1 Force shall include one representative from each of the following
2 state entities:
- 3 (A) Department of Water Resources.
 - 4 (B) State Water Resources Control Board.
 - 5 (C) California Coastal Commission.
 - 6 (D) State Lands Commission.
 - 7 (E) State Department of Public Health.
 - 8 ~~(F) State Energy Resources Conservation and Development~~
9 ~~Commission.~~
 - 10 ~~(G) California Environmental Protection Agency.~~
 - 11 ~~(H) Natural Resources Agency.~~
 - 12 ~~(I) Department of Parks and Recreation.~~
- 13 (2) The Seawater Desalination Permit *Streamlining Improvement*
14 Task Force shall include one representative from each of the
15 following, as determined by the Ocean Protection Council:
- 16 (A) Commission for Economic Development.
 - 17 ~~(B) A coastal regional water quality control board in which is~~
18 ~~located at least one proposed seawater desalination facility.~~
 - 19 (B) *State Energy Resources Conservation and Development*
20 *Commission.*
 - 21 (C) A recognized environmental advocacy group.
 - 22 (D) Two separate and broadly recognized environmental
23 advocacy groups that focus on coastal protection.
 - 24 (E) A water purveyor, as defined in Section 512 of the Water
25 Code, that is a public entity, as defined in Section 514 of the Water
26 Code, that is developing or proposing to develop a seawater
27 desalination facility.
 - 28 (F) An entity that supplies water at wholesale to urban water
29 suppliers, as defined in Section 10617 of the Water Code.
 - 30 (G) A nonprofit association created to further the use of seawater
31 desalination that includes both private and public members.
 - 32 (H) A recognized environmental justice advocacy group.
 - 33 (I) A recognized business advocacy group.
 - 34 (J) A recognized organization representing public union
35 members.
 - 36 (K) A recognized organization representing private union
37 members.
 - 38 (L) *California Environmental Protection Agency.*
 - 39 (M) *Natural Resources Agency.*
 - 40 (N) *Department of Parks and Recreation.*

1 (O) Department of Fish and Game.

2 (3) The Seawater Desalination Permit Improvement Task Force
3 shall include one representative from each coastal regional water
4 quality control board provided that representatives are available
5 to participate.

6 ~~(3)~~

7 (4) A member of the Seawater Desalination Permit-Streamlining
8 Improvement Task Force may appoint an alternate to represent
9 the member at a meeting of the task force.

10 ~~(4)~~

11 (5) A representative of the Ocean Protection Council shall
12 convene the Seawater Desalination Permit-Streamlining
13 Improvement Task Force and act as chair of the task force.

14 (6) The representatives identified in paragraphs (2) and (3)
15 shall have a nonvoting advisory role.

16 (e) The report required in paragraph (1) of subdivision (a) shall
17 be adopted by majority vote of the representatives identified in
18 paragraphs (1) and (5). In the case of a tie vote, the chair shall
19 vote again to break the tie.

20 ~~(e)~~

21 (f) Pursuant to Section 75026, the sum of two hundred fifty
22 thousand dollars (\$250,000) is hereby appropriated to the
23 Department of Water Resources for expenditure by the department
24 to pay the costs for convening the Seawater Desalination Permit
25 Streamlining Improvement Task Force and for preparation of the
26 report pursuant to subdivision (a).

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